

Office of Legislative Research  
Connecticut General Assembly



# OLR ACTS AFFECTING

## ENVIRONMENT



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## **NOTICE TO THE READER**

This report provides highlights of new laws (Public Acts and Special Acts) affecting the environment enacted during the 2012 regular and special legislative sessions. At the end of each summary we indicate the Public Act (PA) or Special Act (SA) number and the date the legislation takes effect.

Not all provisions of the acts are included. Complete summaries of all 2012 Public Acts will be available on OLR's webpage: [www.cga.ct.gov/olr](http://www.cga.ct.gov/olr).

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website ([www.cga.ct.gov](http://www.cga.ct.gov)).

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## **ANIMALS**

### ***Potentially Dangerous Animals***

The law bans possessing potentially dangerous animals, including species of the *hominidae* family (e.g., gorilla, chimpanzee, and orangutan), but exempts primates weighing less than 35 pounds at maturity and imported into the state or owned before October 1, 2003. New legislation extends the exemption for such primates to those imported or possessed before October 1, 2010.

([PA 12-105, § 3](#), effective October 1, 2012)

### ***Reindeer Possession***

New legislation requires the agriculture commissioner, by September 1, 2013, to adopt regulations in consultation and agreement with the Department of Energy and Environmental Protection (DEEP) commissioner, to allow in-state captive cervid (i.e., deer) herds, including reindeer. The act also requires the agriculture commissioner to implement a pilot program for issuing two permits that allow two or less Connecticut businesses to keep five or less reindeer each. Each reindeer must have an importation permit issued by the agriculture commissioner in consultation with DEEP's commissioner.

([PA 12-127](#), effective upon passage)

### ***Wild Mammals***

New legislation exempts ferrets, hedgehogs, sugar gliders, and degu from the law and regulations requiring permits for importing, introducing, possessing, or liberating any live fish, wild bird, wild mammal, reptile, amphibian, or invertebrate in the state. By law, the DEEP commissioner must adopt regulations specifying the species that must meet permit requirements, among other things.

([PA 12-105, § 4](#), effective October 1, 2012)

## **BROWNFIELD REMEDIATION AND DEVELOPMENT**

### ***Brownfield Remediation Program Changes***

Another new law makes changes to existing brownfield remediation programs, establishes a pilot program for conducting environmental reviews of eligible redevelopment projects, expands the Office of Brownfield Remediation and Development's (OBRD) mission, and extends the term of the brownfields working group, which studies how the state's brownfields are being cleaned up and remediated. Among other things, the act (1) narrows the

range of entities eligible for assistance with cleaning and redeveloping brownfields; (2) changes the process for accepting brownfields into the state's Brownfield Liability Protection Program, gives developers more time to pay the program's application fees, and resets deadlines for completing certain tasks; and (3) requires OBRD, consulting with the State Historic Preservation Office, municipal officials, and regional planning organizations, to identify abandoned and underutilized mills that are important assets to municipalities and regions.

([PA 12-183](#), effective July 1, 2012, except the pilot program authorization and the brownfield working group's reporting deadline extension take effect upon passage and an establishment transfer exception is effective January 1, 2014)

### ***Raymark Superfund Site***

A new law requires the DEEP commissioner to report to the legislature's Environment Committee, by February 1, 2013, on potential revenue sources for remediating the Raymark Superfund site in Stratford.

([SA 12-7](#), effective October 1, 2012)

### ***Review of Laws and Regulations***

A new law requires the DEEP commissioner to report, by January 1, 2013, to the governor

and the Commerce and Environment committees on (1) the results of his ongoing review of brownfield remediation and development laws and regulations and (2) recommendations for statutory and regulatory changes and new programs for responding to hazardous waste spills.

([PA 12-196, § 1](#), effective upon passage)

### ***Transfer Act Airport Exemption***

Legislation adopted this session exempts from the Hazardous Waste Establishment Transfer Act ("Transfer Act") airport property the Department of Transportation conveys to the Connecticut Airport Authority (CAA). By law, the Transfer Act requires the parties to a real estate transaction involving contaminated property to notify the DEEP commissioner about the (1) contamination and (2) party that will investigate and remediate it. Among other things, the act requires the state to hold harmless and indemnify CAA and its directors and employees from liability related to title defects and contamination that existed on airport property before it was conveyed to CAA.

([PA 12-196, §§ 2-4](#), effective upon passage, except a technical change is effective January 1, 2014)

## **COASTAL MANAGEMENT**

### ***Activity in Tidal, Coastal, or Navigable Waters***

The legislature adopted two laws this session that made changes to the state Coastal Management Act (CMA) and laws regulating certain activities in the state's tidal, coastal, or navigable waters.

One act adds cemetery and burial grounds to the list of land uses that can be protected by structural solutions, such as retaining walls, under certain circumstances within the coastal boundary. The law already allowed structural solutions to erosion and sedimentation's adverse effects when necessary and unavoidable to protect (1) infrastructural facilities, (2) water-dependent uses, and (3) certain inhabited structures, but there must be no feasible, less environmentally damaging alternative and all reasonable mitigation measures and techniques must be taken to minimize adverse environmental impacts.

([PA 12-100, § 1](#), effective upon passage)

The other act, among other things:

1. modifies CMA's general goals and policies to consider private property owners' rights and the potential impact of a rise in sea level under certain circumstances;

2. allows structural solutions to protect inhabited structures built by January 1, 1995;
3. requires a municipal zoning commission to approve a coastal site plan for a shoreline flood and erosion control structure under certain circumstances;
4. requires such a commission or the DEEP commissioner to propose structure alternatives or mitigation measures and techniques if they deny a shoreline flood and erosion control structure application for certain reasons; and
5. replaces the statutory definition of "high tide line" with one for "coastal jurisdiction line."

The act also requires considering coastal erosion when revising the State Plan of Conservation and Development.

([PA 12-101](#), effective October 1, 2012, except that a provision concerning coastal site plans for shoreline flood and erosion control structures is effective upon passage)

### ***Flood Control Study***

This year's bond act authorizes \$2 million to study methods to plan, design, acquire, and construct structural and nonstructural improvements to mitigate flooding conditions that caused property damage during

2011's weather events. The study must include a cost benefit analysis and an environmental impact analysis of the methods.

([PA 12-189, § 9](#), effective July 1, 2012)

### ***Property Buy-Out Grants***

The bond act also authorizes \$4 million for DEEP and the Department of Emergency Services and Public Protection to implement buy-out programs for certain homeowners or businesses that receive Federal Emergency Management Agency funds for flood hazard mitigation or weather-related property damage. The act specifies that (1) grants can not exceed \$50,000 and (2) priority must be given to eligible applicants with property damage that occurred during a presidentially-declared natural disaster.

([PA 12-189, §§ 39 and 40](#), effective July 1, 2012)

## **FISHING AND HUNTING**

### ***Fish and Game Constable Certification Exemption (VETOED)***

A new law exempts certain fish and game protection constables from having to be certified as a police officer by the Police Officer Standards and Training Council (POST). To be exempt, the constables must (1) be appointed by a town in Hartford County with a population between 44,000 and

50,000 and (2) successfully complete a basic police training course that is tailored to the constables' duties and provided by a POST-certified police officer from that town. And, in order to carry a firearm in the course of their duties, the constables must be certified by a firearms trainer of the police department and meet the recertification requirements that apply to the department's regular sworn officers.

([PA 12-181](#), effective October 1, 2012)

### ***Poaching Penalty***

A new law increases the penalty for entering or remaining in any premises to hunt, trap, or fish, when a person knows he or she is not licensed or privileged to do so. The act makes it a class B misdemeanor punishable by up to six months imprisonment, a fine of between \$500 and \$1,000, or both. Under prior law, it was a class C misdemeanor punishable by up to three months imprisonment, up to a \$500 fine, or both.

([PA 12-84](#), effective October 1, 2012)

## **LAND USE**

### ***Municipal Inland Wetlands Permits***

Under prior law, an inland wetlands permit for a project requiring a zone change or site plan or subdivision approval was



generally valid for up to five years from approval. A new law instead ties the permit validity period to the length of time that the related development's project approval is valid, which can be up to 10 years. The act applies this timeframe to projects requiring any municipal zoning and planning commission approval, including incentive housing zones and projects developed under the affordable housing land use appeals procedure. Certain projects approved before July 1, 2011 are exempted.

The act also allows a municipal inland wetlands agency to restrict the time of year in which a regulated activity can be conducted, if it, or its agent, determines that the restrictions are necessary to protect inland wetlands and watercourses.

([PA 12-151](#), effective October 1, 2012)

### ***Open Space Plan***

A new law requires the DEEP commissioner to update the state's open space plan by December 15, 2012 and at least once every five years, instead of as necessary. The act expands the types of information that the commissioner must include in the plan to include, among other things, (1) an estimate of how much state land is preserved as open space and (2) potential methods, costs, and benefits of establishing a system to accurately track open space land. It also requires the

commissioner, by October 1, 2014, and in consultation with all state agencies, to identify state-owned land that should be conserved and develop a plan to preserve it forever as open space land.

([PA 12-152](#), effective October 1, 2012)

## **SOLID WASTE MANAGEMENT**

### ***Disposal Facility Zoning***

In 2010, a Superior Court case held that the legislature intended to preempt local regulatory authority of solid waste facilities, except facilities for land disposal, when it passed PA 06-76. This session, the legislature passed a law to allow municipalities to regulate solid waste facility land use through zoning regulations. But the act prohibits municipalities that adopt such regulations under statute from effectively banning solid waste facility construction, alteration, or operation in the municipality.

([PA 12-2](#), effective upon passage)

### ***Mercury Thermostats***

A new law requires, by April 1, 2013, mercury thermostat manufacturers to establish mercury thermostat collection and recycling programs. It prohibits them, beginning July 1, 2014, from selling, offering for sale, or distributing thermostats in the state if they do not meet

the act's program-related requirements. The act also prohibits wholesalers or qualified contractors from selling, offering for sale, or distributing thermostats in the state (1) from non-compliant manufacturers or (2) if they do not participate as a mercury thermostat collection site.

Among other things, the act (1) requires manufacturers to provide collection sites with containers and information about proper mercury thermostat management, (2) allows them to charge such sites a one-time administrative fee, and (3) establishes reporting requirements for them and DEEP. Municipalities are not required to participate in a manufacturer's collection and recycling program.

The act also requires, beginning July 1, 2014, disposing of mercury thermostats through recycling or as hazardous waste.

([PA 12-54](#), effective upon passage)

### ***Out-of-State Land Disposal***

Legislation adopted this session requires the DEEP commissioner to allow solid waste disposal at out-of-state land disposal facilities if (1) such facilities comply with applicable federal, state, and local laws and (2) the municipality or contractor disposing at such facilities attempted to use a waste-to-energy facility. Among other

things, the act specifies that the allowance does not apply to solid waste generated in a municipality with a disposal contract with the Southeastern Regional Resources Recovery Authority.

([PA 12-188](#), effective upon passage)

## **STATE PARKS**

### ***Equine Use on Multi-Use Trails***

A new law requires the DEEP commissioner to allow equestrians to use all, instead of only designated, multi-use trails in state parks and forests, unless he specifically prohibits it. The act requires him to consult with the Equine Advisory Council before prohibiting equine use on a trail that has been historically used for horseback riding. But the commissioner may temporarily close any multi-use trail for safety or to protect natural resources.

([PA 12-1, JSS, §§ 264 & 293](#), effective July 1, 2012)

### ***Shoreline Campground Reservations***

New legislation changes a law that prohibited the leasing of campsites at the state's shoreline parks by the same family for more than three weeks total in a camping season. The act prohibits the commissioner from leasing such sites to the same camping party for more than three weeks during the camping season. But it requires him to

lease them (1) to the same party for additional periods of up to three weeks if the party leaves the park for at least five days between leases or (2) on a first come, first served basis, when vacant. The new law also (1) authorizes the commissioner to adopt regulations to establish limits on the length of camping site leases and (2) requires him to establish a pilot program for the 2013 camping season that allows 5% of shoreline park camping sites to be leased to the same camping party without a limit on the number of days leased. For these sites, he may charge a nightly fee of 150% of the 2012 camping season rates.

([PA 12-98](#), effective upon passage)

## **UNDERGROUND STORAGE TANK PROGRAM**

### ***Payment or Reimbursement Funding***

The bond act authorizes \$36 million for DEEP to provide payment or reimbursement under the underground storage tank petroleum clean-up program. It authorizes \$9 million in bonds for each of the next four fiscal years.

([PA 12-189, § 48](#), effective July 1, 2012)

### ***Program Changes***

New legislation makes many changes to the underground storage tank petroleum clean-up

program. Among other things, it: (1) eliminates the Underground Storage Tank Petroleum Clean-Up Review Board and makes DEEP its successor; (2) phases out the program as a financial assurance mechanism; and (3) creates a priority system for paying or reimbursing approved applications. It requires applications to be filed by certain dates, depending upon an applicant's status (e.g., small, mid-size, or large station applicant or municipal or other applicant). Under the new law, an applicant's status determines the procedure for paying or reimbursing all approved applications. Mid-size and large station applicants must be paid or reimbursed under a "reverse auction" system.

([PA 12-1, JSS, §§ 251-263](#), effective upon passage)

## **WATER QUALITY**

### ***Permit Hearings and Appeals***

A new law requires the DEEP commissioner to conduct a hearing at an applicant's request on an application for a (1) water quality certification under the federal Water Pollution Control Act or (2) permit to conduct certain activities in tidal, coastal, or navigable waters, under certain circumstances. The act allows any person aggrieved by the commissioner's final decision on these applications to appeal to Superior Court.

([PA 12-100, §§ 2 & 3](#), effective October 1, 2012)

### ***Phosphorus Reduction***

A new law contains provisions aimed at reducing phosphorus in state waters. It establishes certain restrictions on using fertilizer, soil amendments, or compost containing phosphate. It exempts from the restrictions (1) agricultural land; (2) golf courses; and (3) fertilizer, soil amendments, or compost containing 0.67% or less phosphate. The law also (1) expands the projects eligible for Clean Water Fund moneys to include certain nutrient removal projects and (2) requires the DEEP commissioner, or his designee, to work with certain specified municipalities to evaluate and develop recommendations on a state-wide strategy to reduce phosphorus in inland nontidal waters to comply with U.S. Environmental Protection Agency standards.

([PA 12-155](#), effective upon passage, except the fertilizer, soil amendment, and compost provisions are effective January 1, 2013)

### ***Residential Well Testing***

A new law eliminates local health directors' authority to require private residential well testing for all radionuclides (i.e., radioactive contaminants), instead allowing them to require testing for specific substances:

arsenic, radium, uranium, radon, or gross alpha emitters.

By law, local health directors can only require such testing if there are reasonable grounds to suspect that contaminants are present, such as deposits in bedrock or proximity to areas where such substances are present in groundwater. The law already allows them to require such testing for pesticides, herbicides, or organic chemicals.

([PA 12-197, § 7](#), effective October 1, 2012)

### ***Sewage Spill Notice***

A new law requires the DEEP commissioner to post on the department's website (1) beginning July 1, 2013, a state map showing combined sewer overflows expected to happen during storms and (2) beginning July 1, 2014, notice of unanticipated sewage spills and state waters with chronic and persistent sewage contamination that pose a threat to public health. When developing the notice, the commissioner must consult with (1) the public health commissioner, (2) sewage treatment plant or collection system operators, and (3) state and local environmental and health agencies.

([PA 12-11](#), effective July 1, 2012)

## ***Stormwater Permitting***

Legislation adopted this session provides a framework for allowing qualified professionals to certify compliance with stormwater and waste water discharge general permits if doing so would not violate the federal Water Pollution Control or Safe Drinking Water acts. The act allows the DEEP commissioner to require a certification by a qualified professional when issuing a general permit. When he does, the act requires the permit to specify the professional's required qualifications. Among other things, the act also (1) specifies the grounds for rejecting a certification and the action the commissioner can take when a certification fails to meet the permit's requirements, (2) allows the DEEP commissioner to audit certifications, and (3) requires professionals to notify DEEP and the permittee of any information that could affect a certification.

([PA 12-172](#), effective upon passage)

## **MISCELLANEOUS**

### ***Energy Efficiency***

New legislation focuses on energy efficiency. Among other things, it:

1. requires the Clean Energy Finance and Investment Authority (CEFIA) to establish a property assessed clean energy

program for certain commercial properties to make energy efficiency and renewable energy improvements,

2. allows CEFIA to issue revenue bonds to promote renewable energy and finance energy efficiency projects, and
3. expands the types of technologies that CEFIA can promote through the Clean Energy Fund to include all class I renewable resources.

([PA 12-2, JSS, §§ 157-160](#), effective upon passage, except the revenue bond provision is effective July 1, 2012)

### ***Marine Dealer Registration Numbers***

Legislation adopted this session removes a sunset provision on allowing certain people to operate a vessel with a marine dealer registration number. It also expands the list of people to whom the law applies. The act allows a person to operate a vessel with a marine dealer registration number if he or she (1) holds a current U.S. Coast Guard passenger-for-hire license, (2) holds a current DEEP charter boat registration, and (3) operates a recreational charter fishing guide service using a vessel registered with a marine dealer registration in connection with the guide service.

([PA 12-174](#), effective upon passage)

## ***Misdemeanor Violations***

Legislation adopted this session makes numerous changes to the classification of misdemeanors, including many affecting the environment. It:

1. creates a new class D misdemeanor that is punishable by up to 30 days in prison, a fine of up to \$250, or both;
2. adjusts penalties for previously unclassified misdemeanors;
3. reduces the penalties for some unclassified misdemeanors to fine-only violations; and
4. repeals some unclassified misdemeanors.

Some areas of law affected include hunting and fishing, shellfishing, dredging, and animal possession or transport, among others.

The [OLR bill analysis for SHB 5145](#) summarizes the law's changes.

([PA 12-80](#), effective October 1, 2012, except two conforming changes are effective January 1, 2013)

## ***Noise Pollution***

The law authorizes several initiatives for preserving the state's licensed, privately-owned airports that have paved runways and conduct at least 5,000 operations per year. A new law adds to these initiatives the requirement that noise mitigation

programs be established in those neighborhoods where noise levels exceed applicable Federal Aviation Administration standards and that the programs be funded with available federal dollars. It allows the programs to be combined with energy conservation programs.

([PA 12-138](#), effective July 1, 2012)

## ***Resources Recovery Facility Testing Payments***

A new law requires resources recovery facility owners to pay for all facility testing costs and any other activity eligible for payment. Prior law required them to pay for specified testing costs. Other testing costs and activities eligible for payment were paid from the General Fund.

([PA 12-1, JSS, § 250](#), effective July 1, 2012)

## ***Urea-Formaldehyde Insulation (VETOED)***

New legislation (1) replaces a prior definition of urea-formaldehyde foamed-in-place insulation (UFFI) with a narrower one that excludes formaldehyde polymers and derivatives and (2) restricts the sale and installation of all types of foamed-in-place insulating material unless the manufacturer or supplier certifies to the construction services commissioner that the material complies with certain specifications. Under the act, the certification must include a

statement (1) that the insulating material is not a UFFI material and has met allowable emissions standards under specified tests and (2) under oath that the material complies with the law.

([PA 12-164](#), effective upon passage)

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